

**CEQA ADDENDUM TO THE MITIGATED NEGATIVE DECLARATION
FOR THE COMMERCIAL MEDICAL MARIJUANA LAND USE ORDINANCE**

**Commercial Medical Marijuana Land Use Ordinance Mitigated Negative Declaration
(State Clearinghouse # 2015102005), January 2016**

APN 208-251-002; Dinsmore Area, County of Humboldt

**Prepared By
Humboldt County Planning and Building Department
3015 H Street, Eureka, CA 95501**

August 2023

Background

Modified Project Description and Project History –

The Commercial Medical Marijuana Land Use Ordinance (CMMLUO) established specific regulations for commercial cannabis operations in Humboldt County. These regulations were developed in concert with the Mitigated Negative Declaration (MND) that was adopted for the ordinance to implement the mitigation measures of the MND. The MND addressed the broad environmental impacts that could be expected to occur from the adoption and implementation of the ordinance. The MND specified that the regulations established in the CMMLUO would mitigate the impacts of existing cannabis operations by establishing regulations for an existing unregulated land use to help prevent and reduce environmental impacts that are known to result from unpermitted baseline cultivation operations. Commercial cannabis cultivation in existence as of December 31, 2015, was included in the environmental baseline for the MND and the MND states that “Bringing existing operations into compliance will help to attenuate potential environmental effects from existing cultivation activities, including aesthetic impacts resulting from improper operation or poor siting.” The current project was contemplated by the MND and compliance with the provisions of the CMMLUO will fully mitigate all environmental impacts of the project to a less than significant level.

A Conditional Use Permit for 18,500 square feet (SF) of existing Outdoor commercial cannabis cultivation supported by a 1,920 square foot ancillary nursery. Water is sourced from a groundwater well and a Point of Diversion from an onsite spring. The annual estimated water budget is 158,000-gallons is supported by 12,500-gal. of existing and 65,000-gal. proposed tank storage. Processing such as drying and curing will occur on site, with trimming and packaging occurring offsite. Power source is a 1.7-kW solar system with a generator back up. No employees are proposed, only operators and one immediate family member.

Energy:

The project obtains power from an existing 1.7-kW solar system with a generator backup. By January 1, 2026 the applicant shall develop and implement a plan to provide a majority of the power demand from renewable sources.

Water Resources:

The annual 158,000-gallon irrigation water budget is sourced from permitted groundwater well (WCR2019-013014; 18/19-1259), and Point of Diversion from an onsite spring (Cert. No. H100568). The well has been analyzed for connectivity to surface water and nearby domestic water sources, and has been determined to not be hydrologically connected to surface waters. Including the ancillary nursery, water usage translates to approximately 9.3-gallons per square foot per year.

Water is stored in 12,500-gal. of existing storage, with approved grant funding allowing the applicant to develop 65,000-gal. of additional water storage for a total of 77,500-gal. between the two parcels, which represents approximately 50% of the annual irrigation budget.

A Water Resource Protection Plan (WRPP) for the project was received and was prepared in order to meet the North Coast Regional Water Quality Control Board (NCRWQCB) requirements for

Tier 2 discharges of waste resulting from cannabis cultivation, and contains multiple standard conditions for the applicant to complete on an annual basis, including eight stream crossing upgrades. The stream crossings shall be completed within two years of project approval.

A Lake and Streambed Alteration Agreement (LSAA) has been filed with the California Department of Fish and Wildlife (CDFW) to address all work to be done within the waterways (Notification No. 1600-2017-0440-R1). Work proposed under the LSAA includes:

- Ongoing maintenance of a spring in a Class III stream.
- Replace eight culverts or stream crossings, including upgrading dirt fords with culverts and upsizing remaining culverts.

Fire Hazards:

The project is in an area designated to have High Fire Hazard Severity. The project is located within the Ruth Lake Community Services District (RLCSD), which provides emergency and fire response in the project area. The project was referred to RLCSD on September 26, 2017. No comments were received by the agency. The applicant will obtain a will serve letter from the BFPD or shall cause to be recorded an "ACKNOWLEDGMENT OF NO AVAILABLE EMERGENCY RESPONSE AND FIRE SUPPRESSION SERVICES" for the parcel(s) on a form provided by the Humboldt County Planning Division. Document review fees as set forth in the schedule of fees and charges as adopted by the Board of Supervisors will be required. The project is also within the State Responsibility Area (SRA) for California Department of Forestry and Fire Protection (CalFIRE). Project conditions require applicant to revise Site Plan to depict ample room for a firetruck and/or emergency vehicle turnaround, and dedicated tank(s) for fire suppression.

Biological Resources:

The nearest mapped Northern Spotted Owl activity center (HUM0019) is approximately 1.6 miles to the northwest of the project site, with the nearest mapped sighting approx. 0.5 mile to the southeast (from a different activity center approximately 2.4 miles southeast of the project site). Artificial light in the ancillary nursery will be blocked by blackout tarps to eliminate light from escaping the structures 30 minutes prior to sunset and 30 minutes after sunrise. Backup generator use is not allowed until the applicant can demonstrate it operates at or below the 50 decibel (dB) threshold at 100 feet or nearest forested edge, whichever is closer. As proposed and conditioned, the project is consistent with CCLUO performance standards and will not negatively impact the Northern Spotted Owl or other sensitive animal species.

The project site falls within the mapped general boundary containing Oregon goldenrod, and near the area potentially containing Bolander's catchfly. Both plant species were observed in the area in 1976. Development proposed is limited to two discrete areas, one for a 20' x 40' processing building and the second for adding water storage tanks, both located in areas of previous ground disturbance going back to at least 2012. Staff believes the project has a very low likelihood of affecting either species as previous ground disturbance has occurred in the two areas proposed for additional development.

Tribal Cultural Resource Coordination:

The project is within the historic aboriginal territory of the Bear River Band of the Rohnerville Rancheria. The project was referred to the Northwest Information Center at Sonoma State and

Bear River Tribal Historic Preservation Officer. Referral responses indicated application of inadvertent discovery protocol. The standard inadvertent discovery protocol has been incorporated into the project as a condition of approval.

The modified project is consistent with the adopted MND for the CMMLUO because it complies with all standards of the CMMLUO which were intended to mitigate impacts of existing cultivation. These include ensuring onsite lighting adheres to Dark Sky Association standards and ensuring project related noise does not harass nearby wildlife which will limit impacts to biological resources because of light and noise.

Purpose - Section 15164 of the California Environmental Quality Act (CEQA) provides that the lead agency shall prepare an addendum to a previously certified Mitigated Negative Declaration (MND) if some changes or additions are necessary but none of the conditions described in Section 15162 calling for a subsequent EIR or Negative Declaration have occurred. Section 15162 states that when an EIR has been certified for a project, no subsequent EIR shall be prepared for that project unless the lead agency determines, on the basis of substantial evidence in the light of the whole record, one or more of the following:

1. Substantial changes are proposed in the project which require major revisions of the previous MND due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or
2. Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous MND due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or
3. New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous MND was certified as complete, shows any of the following: A) the project will have one or more significant effects not discussed in the previous MND; B) significant effect previously examined will be substantially more severe than shown in the previous MND; C) mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or D) mitigation measures or alternatives which are considerably different from those analyzed in the previous MND would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

Summary of Significant Project Effects and Mitigation Recommended

A review of Appendix G impacts:

Aesthetics: The project is for pre-existing outdoor cannabis cultivation in an existing flat. The project will not significantly impact scenic vistas or public views as the project site is surrounded by trees and cultivation will not be visible from the road. The project is consistent with the

agricultural visual character of the area. The project will not create a source of light or glare. No impact.

Agriculture and Forestry Resources: The project will utilize Forestry Recreation zoned land for agricultural purposes, which is consistent with the purposes of the zone. The project will not convert prime farmland or conflict with existing zoning for agricultural use or Williamson Act contract. The project will not result in the loss of forest land or conversion of forest land to non-forest use. No impact.

Air Quality: Minimal construction activities are associated with the project. All construction activities are limited to addition of a 20' x 40' processing building and adding water tanks, and will occur in previously disturbed areas. The project will not expose sensitive receptors to pollutants or create objectionable odors affecting a substantial number of people. The project would not result in significant sources of greenhouse gas emissions. The project does utilize a gravel road, and traffic on gravel roads contributes to PM-10, for which the North Coast Air Basin is already in non-attainment. The project will not employ employees, and will operate much as it did when baseline CEQA conditions were analyzed. No increase in traffic compared to baseline. Less than significant impact.

Biological Resources: The nearest mapped Northern Spotted Owl (NSO) activity center (HUM0925) is 1.6 miles to the northwest, but individual sightings have been mapped as close as 0.5 mile from the project site. As such, staff assumes the presence of NSO and has added conditions of approval to prevent any project impacts to the species. Artificial light from the single ancillary nursery greenhouse will be blocked by blackout tarps to eliminate light from escaping the structures 30 minutes prior to sunset and 30 minutes after sunrise. Noise from backup generator(s) is limited to 50 decibels (dB) At 100 feet or nearest forested edge, whichever is closer. No artificial lighting or backup generator use will be allowed until Planning Division staff verifies compliance with these standards. As proposed and conditioned, the project is consistent with CMMLUO performance standards and will not negatively impact the Northern Spotted Owl or other sensitive species. Less than significant impact.

Cultural Resources: Consultation letters were sent to the Bear River Band of the Rohnerville Rancheria and the Northwest Information Center (NWIC) at Sonoma State, the former of which recommended implementation of the inadvertent discovery protocol. The standard inadvertent discovery protocol will be used to protect artifacts or remains that may be discovered during project work. Project site is mostly developed, save for additional water tanks and processing building, which will be located in previously disturbed areas. Ground disturbance is expected to be minimal. Less than significant impact.

Energy: Power is provided by a 1.7-kilowatt (kW) solar system, with generator providing backup power at times of peak demand or limited insolation. Project conditions require applicant to submit an energy budget within 60-days of approval outlining power needs for the project and demonstrating project's capability to provide renewable energy for majority of the project power needs, to be achieved by January 1, 2026. Less than significant impact.

Geology and Soils: The project is located in an area mapped as high geologic instability. All

structures, existing and proposed, will be required to obtain building permits within two years of project approval. The building permits will require additional scrutiny of the stability of the area in consideration to the relevant structure. The project occurs on flat land that has historically been used for agriculture. No significant grading is proposed to occur. Less than significant impact.

Greenhouse Gas Emissions: Vehicle Miles Traveled (VMT) will be commensurate to baseline conditions when the MND was prepared, and will result in no increase to VMT. Power is provided by solar and a generator backup, again commensurate to the generator use when baseline conditions were assessed. Less than significant impact.

Hazards and Hazardous Materials: The project will store fertilizers, herbicides and fuel for use in farm equipment in existing storage structures. All hazardous materials are stored in a locked area with secondary containment in accordance with applicable regulations. The project does not expose the public to hazards. The project is in a rural area rated as a high fire risk area, however no significant wood framed structures will be constructed as part of this project. The project would not impair emergency response or create a significant risk from wildfire. Less than significant impact.

Hydrology and Water Quality: The project is for a total of 18,500 square feet of cannabis cultivation in an open flat in already developed greenhouses and planter boxes. The project will not degrade any water sources or contribute to sedimentation. There are three Class III streams and six (6) stream crossings located on the project parcel. The project will utilize a permitted groundwater well for irrigation; the well has been analyzed and determined to likely be disconnected from surface waters. A Water Resources Protection Plan (WRPP) was developed for the project in accordance with the State Water Resources Control Board's (SWRCB) General Order. Applicant is required to winterize the site and ensure roads are adequately sloped and do not contribute to sedimentation, erosion, or nutrient runoff to surface waters. A Lake and Streambed Alteration Agreement (LSAA) has been obtained from California Department of Fish and Wildlife (CDFW). Both the LSAA and WRPP contain requirements to upgrade culvers at stream crossings, and winterize the site to prevent erosion, sedimentation, and nutrient runoff. Less than significant impact.

Land Use and Planning: The project proposes an agricultural activity on a parcel zoned for forestry recreation. The project will not physically divide an established community or result in a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect. No impact.

Mineral Resources: No mining is proposed. The project will not result in the loss of availability of a known mineral resources that would be of value to the region and the residents of the state. The project will not result in the loss of availability of a locally important mineral resource recover site. No impact.

Noise: The project will be powered by a 1.7-kW solar system, and backup generator is used only in times of limited insolation. Generator use is not allowed until the applicant can demonstrate it operates at or below 50 decibels (dB) at 100 feet or nearest forested edge, whichever is closer. Noise sources from the operation will include drying activities, which will occur within an

enclosed structure. Drying would involve the use of fans and dehumidifiers. The temporary noise impacts from these activities would not create a substantial increase in noise levels. The operation will be planting in existing, previously developed greenhouses without the use of noise generating equipment. There is no reason to believe the noise source will be increased substantially on-site. The project will not result in the generation of excessive groundborne vibration or noise levels. No impact.

Population and Housing: The project is for outdoor cannabis cultivation. No housing is proposed, nor is any removal of housing proposed. The project will not induce substantial unplanned population growth in an area nor displace substantial numbers of existing people or housing necessitating the construction of replacement housing. No impact.

Public Services: The project is for 18,500 square feet of cannabis cultivation on a site where agriculture is the historical dominant use. The project will not increase the need for fire or law enforcement services. The project is not within 600 feet of a park or a school. No impact.

Recreation: The project site is private property and contains no recreational facilities nor are recreational facilities accessed through the property. There are no recreational facilities located within 600 feet of the project. No impact.

Transportation: The project will be owner-operated without the use of employees, which was considered as part of the analysis of baseline conditions in the MND for the CMMLUO. A Road Evaluation Report (RER) prepared by a licensed engineer outlines multiple road improvements required to ensure the roadway is adequate to meet the demands of the project. The applicant will either join or attempt to form a Road Maintenance Association for the ongoing upgrades and maintenance of the private access roads. The project site will also have adequate emergency access. The applicant will be required to contact California Department of Transportation (CalTrans) to determine if an encroachment permit will be required to address the driveway off of State HWY 36, which is a condition of project approval. Less than significant impact.

Tribal Cultural Resources: The application is consistent with the Bear River Band of the Rohnerville Rancheria's tribal process, as the project was referred to the Tribal Historic Preservation Officer which recommended inadvertent discovery protocol for any ground disturbing activities. The project was also referred to the Northwest Information Center at Sonoma State. No impact.

Utilities and Service Systems: Solid waste is stored in a manner to prevent access by wildlife, and is taken offsite regularly. Water for propagation and cultivation is sourced from a permitted groundwater well, and a permitted Point of Diversion from an onsite spring. Power is sourced from solar and a backup generator in times of limited insolation. Less than significant impact.

Wildfire: The project will not interfere with any evacuation plan. There will be no significant new structures that will increase the risk of wildfire. Less than significant impact.

No changes are proposed for the original MND recommended mitigations. The proposal to authorize the continued operation of an existing cannabis cultivation site consisting of 10,000

square feet of cultivation with ancillary propagation and processing activities is fully consistent with the impacts identified and adequately mitigated in the original MND. The project as conditioned to implement responsible agency recommendations, results in no significantly adverse environmental effects beyond those identified in the MND. Compliance with the CMMLUO ensures consistency with the adopted MND and provides for mitigation of all project related impacts to a less than significant level.

In reviewing the application for consistency with the adopted MND, the County considered the following information and studies, among other documents:

- Cultivation & Operations Plan
- Site Plan
- Water grant details
- Water Resources Protection Plan
- Right to Divert and Use Water
- Notice of Intent
- Lake and Streambed Alteration Agreement
- Well Completion Report
- Road Evaluation
- Department of Environmental Health Worksheet
- County GIS

Other CEQA Considerations

Staff suggests no changes for the revised project.

EXPLANATION OF DECISION NOT TO PREPARE A SUPPLEMENTAL MITIGATED NEGATIVE DECLARATION OR ENVIRONMENTAL IMPACT REPORT

See **Purpose** statement above.

In every impact category analyzed in this review, the projected consequences of the current project proposal are either the same or less than significantly increased than the initial project for which the MND was adopted.

Project impact analysis of conformance to the Mitigated Negative Declaration Substituted Mitigation Monitoring and Reporting Program

Mitigation Measure 1: Required setback from tribal cultural resources and tribal consultation process (55.4.10(n) and 55.4.10(c)).

- The project is within the historic aboriginal territory of the Bear River Band of the Rohnerville Rancheria. The project was referred to the Northwest Information Center at Sonoma State and Bear River Band. Referral responses indicated application of inadvertent discovery protocol would suffice to protect historical and cultural resources. The project site meets or exceeds the setbacks from tribal cultural resources and will adhere to inadvertent discovery protocol measures for any ground disturbing activities.

Mitigation Measure 2: Curing violations of state, county code (55.4.11(a)).

- The project is for pre-existing cultivation and project approval includes a compliance agreement to cure unresolved violations of state or county code.

Mitigation Measure 3: Required setbacks from watercourses, wetlands, and Environmentally Sensitive Habitat Areas (55.4.11(d)).

- The project is located within the inland portion of the county and is subject to the setback standards in the Streamside Management Areas and Wetlands Ordinance as well as Chapter 10 (Conservation and Open Space Elements) of the General Plan. The project parcel does contain three Class III streams with a 50 foot Streamside Management Area (SMA) buffer, and meets the setbacks required from property lines, schools, school bus stops, church or other place of religious worship or tribal cultural resource.

Mitigation Measure 4: Permitting Tiers and related requirements (55.4.8.2 et seq.)

- The project is for 18,500 square feet of pre-existing cultivation in an Forestry Recreation (FR) zone which requires a Conditional Use Permit. The project complies with the requirements described in 55.4.8.2 et seq.

Mitigation Measure 5: Retirement, Remediation, and Relocation Program (55.4.14)

- The project is not participating in the Retirement, Remediation, and Relocation program therefore this mitigation measure does not apply.

Mitigation Measure 6: Cannabis Cultivation on Forest Lands

- This project is for pre-existing cultivation consistent with baseline conditions which is eligible in a Forestry Recreation (FR) zone. No new increased cultivation will occur. There was no tree removal conducted for cannabis cultivation activities.

Mitigation Measure 7: Use of fertilizer, pesticide, fungicide, rodenticide, or herbicide (55.4.11(j)).

- The project operations plan describes measures that will be taken to properly store and handle hazardous materials. Compliance with the operations plan is a condition of project approval. The use of anticoagulant rodenticide is prohibited. The project is conditioned requiring the applicant to provide written compliance with the Certified Unified Program Agency (CUPA) requirements.

Mitigation Measure 8: Diversion of surface water and trucked water (55.4.11(l)-(m)).

- The project will utilize a permitted groundwater well and a Point of Diversion from an onsite spring for irrigation. Applicant is required to forbear from the spring diversion between May 31 and Nov. 1 annually, in accordance with this section of the CMMLUO.

Mitigation Measure 9: Generator Use (55.4.11(o)).

- Power will be sourced by existing solar, with generator serving only as backup in times of emergencies and limited insolation. Applicant is required to provide an energy budget and demonstrate reliance primarily on renewable sources to be fully implemented by January 1, 2026.

Mitigation Measure 10: Storage of Fuel (55.4.11(p)).

- The project is conditioned that fuel shall be stored and handled in compliance with applicable state and local laws and regulations and in such a way that no spillage occurs.

Mitigation Measure 11: Performance Standards for Cultivation and Processing Activities (55.4.11(q)-(u)).

- The project will process onsite, and all measures contained within this section of the CMMLUO have been made conditions of project approval.

Mitigation Measure 12: Performance Standards for Mixed Light Cultivation (55.4.11).

- The project is for outdoor cultivation and does not use artificial light for cultivation.

Mitigation Measure 13: Humboldt Artisanal Branding Provision (55.4.15).

- The proposed project is for more than 3,000 square feet therefore this measure does not apply.

Mitigation Measure 14: Sunset Clause for applications

- The application was received on December 27, 2016, prior to the sunset of the ordinance.

Based upon this review, the following findings are supported:

FINDINGS

1. The proposed project will permit an existing cannabis operation and bring the operation into compliance with county and state requirements intended to adequately mitigate environmental impacts.
2. The circumstances under which the project was approved have not changed substantially. There are no new significant environmental effects and no substantial increases in the severity of previously identified effects.
3. For the current proposed project, there has been no new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous MND was adopted as complete.

CONCLUSION

Based on these findings it is concluded that an Addendum to the certified MND is appropriate to address the requirements under CEQA for the current project proposal. All of the findings, mitigation requirements, and mitigation and monitoring program of the MND, remain in full force and effect on the original project.